

Certificate or equivalent official document under this section may be affected by the validity of the Import Certificate or equivalent official document (see § 748.14(f) of the EAR).

[64 FR 17973, Apr. 13, 1999]

**§ 742.18 Chemical Weapons Convention (CWC or Convention).**

States that are parties to the Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, also known as the Chemical Weapons Convention (CWC or Convention), undertake never to develop, produce, acquire, stockpile, transfer, or use chemical weapons. As a State Party to the Convention, the United States is subjecting certain toxic chemicals and their precursors listed in Schedules within the Convention to trade restrictions. Trade restrictions include: a prohibition on the export of Schedule 1 chemicals to States not Party to the CWC; a prohibition on the reexport of Schedule 1 chemicals to all destinations (both States Parties to the CWC and States not Party to the CWC); license requirements for the export of Schedule 1 chemicals to all States Parties; a prohibition on the export of Schedule 2 chemicals to States not Party to the CWC; and an End-Use Certificate requirement for exports of Schedule 3 chemicals to States not Party to the CWC. Exports of CWC chemicals that do not require a license for CW reasons (e.g., exports and reexports of Schedule 2 and Schedule 3 chemicals to States Parties to the CWC) may require a license for other reasons set forth in the EAR. (See, in particular, the license requirements in § 742.2 of the EAR that apply to exports and reexports of chemicals and precursors controlled by ECCN 1C350, for CB reasons. Also note the end-use and end-user restrictions in part 744 of the EAR and the restrictions that apply to embargoed countries in part 746 of the EAR.)

(a) *License requirements.* (1) *Schedule 1 chemicals under ECCN 1C350 or ECCN 1C351.* A license is required for CW reasons to export or reexport Schedule 1 chemicals controlled under ECCN 1C350.a.20, a.24, or a.31 or ECCN 1C351.d.5 or d.6 to all destinations in-

cluding Canada. CW applies to 1C351.d.5 for ricin in the form of Ricinus Communis Agglutinin<sub>III</sub> (RCA<sub>III</sub>), which is also known as ricin D or Ricinus Communis Lectin<sub>III</sub> (RCL<sub>III</sub>), and Ricinus Communis Lectin<sub>IV</sub> (RCL<sub>IV</sub>), which is also known as ricin E. CW applies to 1C351.d.6 for saxitoxin identified by C.A.S. #35523–89–8. (Note that the advance notification procedures and annual reporting requirements described in § 745.1 of the EAR also apply to exports of Schedule 1 chemicals.)

(2) *Schedule 2 and 3 chemicals controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C995.* (i) *States Parties to the CWC.* Neither a license nor an End-Use Certificate is required for CW reasons to export or reexport Schedule 2 and 3 chemicals controlled under ECCN 1C350, ECCN 1C355, or 1C995.b to States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR).

(ii) *States not Party to the CWC.* (A) *Schedule 2 chemicals.* A license is required for CW reasons to export or reexport Schedule 2 chemicals controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C995.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR).

(B) *Schedule 3 chemicals.* (1) *Exports.* A license is required for CW reasons to export Schedule 3 chemicals controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C995.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to Part 745 of the EAR), *unless* the exporter obtains from the consignee an End-Use Certificate (issued by the government of the importing country) prior to exporting the Schedule 3 chemicals and submits it to BXA in accordance with the procedures described in § 745.2 of the EAR. Note, however, that obtaining an End-Use Certificate does not relieve the exporter from the responsibility of complying with other license requirements set forth elsewhere in the EAR.

(2) *Reexports.* Neither a license nor an End-Use Certificate is required for CW reasons to reexport Schedule 3 chemicals controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C995.b from States Parties to the CWC (destinations listed in Supplement No. 2 to part

745 of the EAR) to States not Party to the CWC. However, a license may be required for other reasons set forth elsewhere in the EAR. In addition, please note that reexports of Schedule 3 chemicals may be subject to an End-Use Certificate requirement by governments of other countries when the chemicals are destined for States not Party to the CWC.

(C) *Technology controlled under ECCN 1E355.* A license is required for CW reasons to export or reexport technology controlled under ECCN 1E355 to all States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR), except for Israel and Taiwan.

(b) *Licensing policy.* (1) *Schedule 1 chemicals—(i) Exports to States Parties to the CWC.* Applications to export Schedule 1 chemicals controlled under ECCN 1C350 or ECCN 1C351 to States Parties to the CWC (destinations listed in Supplement No. 2 to part 745 of the EAR) generally will be denied, *unless* all of the following conditions are met:

(A) The chemicals are destined only for purposes not prohibited under the CWC (i.e., research, medical, pharmaceutical, or protective purposes);

(B) The types and quantities of chemicals are strictly limited to those that can be justified for those purposes;

(C) The Schedule 1 chemicals were not previously imported into the United States (this does not apply to Schedule 1 chemicals imported into the United States prior to April 29, 1997, or imported into the United States directly from the same State Party to which they now are to be returned, i.e., exported); *and*

(D) The aggregate amount of Schedule 1 chemicals in the country of destination at any given time is equal to or less than one metric ton *and* receipt of the proposed export will *not* cause the country of destination to acquire or to have acquired one metric ton or more of Schedule 1 chemicals in any calendar year.

(ii) *Exports to States not Party to the CWC.* Applications to export Schedule 1 chemicals controlled under ECCN 1C350 or ECCN 1C351 to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745 of the EAR) generally will be denied, con-

sistent with U.S. obligations under the CWC to prohibit exports of these chemicals to States not Party to the CWC.

(iii) *Reexports.* Applications to reexport Schedule 1 chemicals controlled under ECCN 1C350 or ECCN 1C351 generally will be denied to all destinations (including both States Parties to the CWC and States not Party to the CWC).

(2) *Schedule 2 chemicals.* Applications to export or reexport Schedule 2 chemicals controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C995.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745) generally will be denied, consistent with U.S. obligations under the CWC to prohibit exports of these chemicals to States not Party to the CWC.

(3) *Schedule 3 chemicals.* Applications to export Schedule 3 chemicals controlled under ECCN 1C350, ECCN 1C355, or ECCN 1C995.b to States not Party to the CWC (destinations *not* listed in Supplement No. 2 to part 745) generally will be denied.

(4) *Technology controlled under ECCN 1E355.* Exports and reexports of technology controlled under ECCN 1E355 will be reviewed on a case-by-case basis.

(c) *Contract sanctity.* Contract sanctity provisions are not available for license applications reviewed under this section.

[66 FR 49524, Sept. 28, 2001]

#### § 742.19 Anti-terrorism: North Korea.

(a) *License requirements.* (1) All items on the Commerce Control List (CCL) (i.e., with a designation other than EAR 99) require a license for export or reexport to North Korea, except ECCNs 0A988 and 0A989. This includes all items controlled for AT reasons, including any item on the CCL containing AT column 1 or AT column 2 in the Country Chart column of the License Requirements section of an ECCN; and ECCNs 0A986, 0A999, 0B986, 0B999, 0D999, 1A999, 1B999, 1C995, 1C999, 1D999, 2A994, 2B994, 2C994, 2A999, 2B999, 3A999, and 6A999.

(2) The Secretary of State has designated North Korea as a country whose Government has repeatedly provided support for acts of international terrorism.